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10/696,109	10/29/2003	Robert Wright	030305 (BLL-0114)	6914

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EXAMINER	
PYO, MONICA M	

ART UNIT	PAPER NUMBER
2161	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/696,109	WRIGHT ET AL.	
	Examiner	Art Unit	
	MONICA M. PYO	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 October 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to the Amendment filed 10/9/2008.

2. Claims 1-21 are currently pending in this application. Claims 1, 16 and 21 are independent claims. In the Amendment filed 10/9/2008, claims 1, 16 and 21 are amended. This action made Final.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1, 16 and 21, these claims recite the limitation "the directory lists source storage device locations containing data bundles that correspond to the at least one of the one or more segments, at least one data bundle being stored on **only** a single source storage device" (i.e., lines 8-10 of claim 1). However, the specification, including applicant's suggested paragraph [0050] and the figure 3, do not properly disclose or support the feature of "... being stored on only a single source storage device." Thus, this claimed limitation is inconsistent with what has been described in the specification and constitutes a new subject matter.

Claims not specifically mentioned above are rejected by virtue of their dependency to rejected claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-3, 6-8, 10-13, 15-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over International Application Publication Number WO 02/054708 by Redmond (hereinafter Redmond) in view of U.S. Patent No. 6,415,373 issued to Peters et al. (hereinafter Peters), and further in view of U.S. Patent No. 6,691,149 issued to Yokota et al. (hereinafter Yokota).

Regarding Claim 1, Redmond discloses that it is well known in the art that a method for providing delivery of a segmented data file comprising:

A). receiving a request to send the segmented data file to a target device, as requests are received from clients (Redmond: pg. 3, lns. 25-35; pg. 5, lns. 17-19; fig. 1);

C). for at least one of the one or more segments, as segmented data files (Redmond: pg. 6, lns. 4-11)**:**

D). determining, from the directory, one or more of the source storage device locations containing a data bundle corresponding to the at least one of the one or more

segment, as to determine the load and operational status of the various of nodes and servers (Redmond: pg. 6, lns. 20-34);

E). wherein the data bundle is retrievable from any of the determined source storage device locations corresponding to the at least one of the one or more segments, as to deliver user requested content from determined segmented data file storages (Redmond: pg. 6, lns. 20-34; pg. 8, lns. 1-9)**; and**

F). transmitting said data bundle from each said selected source storage device location to said target device, as a display of requested media content (Redmond: pg. 7, lns. 1-13).

Although Redmond discloses **the segmented data file, wherein at least one of the one or more segments included in the segmented data file corresponds to a plurality of source locations**, as segmented data files are stored in plurality of segment storages (Redmond: pg. 4, lns. 2-6; pg. 6, lns. 4-11)**,** Redmond does not explicitly disclose the method to **query the directory for one or more segments included in the segmented data file, each of the segments including one or more data bundles, wherein at least one of the one or more segments included in the segmented data file corresponds to a plurality of source storage device locations, the directory lists one or more data files and the one or more segments that make up each data file, and the directory lists source storage device locations containing data bundles that correspond to the at least one of the one or more segments, at least one data bundle being stored on only a single source storage device; and a method of selecting one of the source storage device locations for the at least one of the one or more segments.** However, such features are well known in the art as disclosed in Peters (Peters: col.

13, lns. 9-65; i.e., an operating system searches the directory to find the location of the file and identifies space in the storage to make an entry for a new file) and it would have been obvious to one of ordinary skill person in the art at the time of invention to utilize the teachings of Peters in the system Redmond in view of improving the efficiency of the segmented data delivery system.

Redmond and Peters do not explicitly disclose the segmented data file including one or more data bundle. However, such a feature is well known in the art as disclosed in Yokota (Yokota: col. 15, lns. 10-22; col. 15, lns. 55-col. 16, lns. 28; figs. 9, 10A & 10B; i.e., as one ATRACK3 music program data file containing 3 clusters <i.e., segments> and each cluster is composed of a plurality of sound units <i.e., source locations> and it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the teachings of Yokota in the systems Redmond and Peters in view of improving the efficiency of the segmented data delivery system.

Regarding Claim 2, Redmond and Peters and Yokota disclose the method further comprising updating said directory with pointers to said target device for each said data bundle transmitted to said target device (Redmond: pg. 7, lns. 1-13) and (Peters: col. 13, lns. 24-39).

Regarding Claim 3, Redmond and Peters and Yokota disclose the method wherein said request is from said target device (Redmond: pg. 3, lns. 29-35; pg. 5, lns. 14-23).

Regarding Claim 6, Redmond and Peters and Yokota disclose the method further comprising:

receiving a data file (Redmond: pg. 5, lns. 33-pg. 6, lns. 3);

segmenting said data file into data bundles (Redmond: pg. 5, lns. 14-23; pg. 8, lns. 10-18);

staging said data bundles to one or more said source storage device locations (Redmond: pg. 8, lns. 1-9; pg. 13, lns. 10-13) and (Peters: col. 13, lns. 24-39); and

updating said directory to reflect said data bundles and said source storage device locations for said data file as said segmented data file (Redmond: pg. 8, lns. 1-9) and (Peters: col. 19, lns. 36-49).

Regarding Claim 7, Redmond and Peters and Yokota disclose the method wherein said selecting is responsive to a network topology (Peters: col. 5, lns. 57-col. 6, lns. 12).

Regarding Claim 8, Redmond and Peters and Yokota disclose the method wherein said selecting is responsive to capabilities at said one or more source locations (Redmond: pg. 6, lns. 20-34) and (Peters: col. 6, lns. 26-60).

Regarding Claim 10, Redmond and Peters Yokota disclose the method wherein said segmented data file includes one or more of audio and video (Redmond: pg. 2, lns. 4-10) and (Peters: col. 8, lns. 20-28; fig. 3).

Regarding Claim 11, Redmond and Peters Yokota disclose the method wherein said target device is a personal computer (Redmond: pg. 5, lns. 14-23).

Regarding Claim 12, Redmond and Peters Yokota disclose the method wherein said target device includes a video server (Peters: col. 1, lns. 61-col. 2, lns. 5).

Regarding Claim 13, Redmond and Peters disclose the method wherein said target device includes an audio server (Peters: col. 1, lns. 61-col. 2, lns. 5).

Regarding Claim 15, Redmond and Peters Yokota disclose the method wherein said target device is any device capable of storing said segmented data file (Redmond: pg. 3, lns. 1-5) and (Peters: col. 7, lns. 36-58).

Regarding Claim 16, Redmond and Peters and Yokota disclose all the limitations as recited in claim 1. Additionally, Redmond and Peters disclose a system for providing delivery of a segmented data file comprising:

A). the segmented data file accessible via a network, the segmented data file including one or more data bundles, as resources being available in a network (Redmond: pg. 8, lns. 19-29) and (Yokota: col. 15, lns. 10-22; col. 15, lns. 55-col. 16, lns. 28; figs. 9, 10A & 10B);

B). a directory accessible via the network, as various resources being accessible via a network (Peters: col. 13, lns. 9-65);

C). a target device in communication with the network, as a delivering and serving media content via a distributed network (Redmond: pg. 3, lns. 9-19); and

D). a network element in communication with the network including instructions to implement a method including, as the Neuro Center manages all requests for media content and is accessible via an internetwork (Redmond: pg. 5, lns. 14-33).

Regarding Claim 18, Redmond and Peters and Yokota disclose the system wherein said network includes the Internet (Redmond: pg. 24-32) and (Peters: col. 35-56).

Regarding Claim 19, Redmond and Peters and Yokota disclose the system wherein said network includes a broadband network (Redmond: pg 5, lns. 24-32) and (Peters: col. 2, lns. 26-35; col. 4, lns. 18-31).

Regarding Claim 20, Redmond and Peters and Yokota disclose the system wherein said network is any network capable of transmitting data from one location to another location (Peters: col. 13, lns. 9-65).

Regarding Claim 21, Redmond and Peters and Yokota disclose all the limitations as recited in claim 1. Additionally, Peters disclose a computer program product for providing delivery of segmented data files, the computer program product comprising:

a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for performing a method comprising, as the system (Peters: col. 6, lns. 13-24):

7. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Peters, further in view Yokota as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent No. 6,862,594 issued to Saulpaugh (hereinafter Saulpaugh).

Regarding Claim 4, although Peters disclose the method of redistributing segmented files (fig. 8), Redmond and Peters and Yokota do not explicitly disclose the method further comprising retransmitting said data bundle from one of said selected source locations in response to a transmission error. However, such a feature is well known in the art as disclosed in Saulpaugh (Saulpaugh: col. 54, lns. 50-61) and it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the teachings of Saulpaugh in the systems of Redmond and Peters and Yokota in view of improving the efficiency of the segmented data delivery system.

Regarding Claim 17, Although Redmond discloses the system using a wireless device (pg. 5, lns. 17-19), Redmond and Peters and Yokota do not explicitly disclose the system wherein said network includes a wireless network. However, such a feature is well known in the art as disclosed in Saulpaughs (Saulpaugh: col. 15, lns. 33-42) and it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the teachings of Saulpaugh in the systems of Redmond and Peters and Yokota in view of improving the efficiency of the segmented data delivery system.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Peters, further in view Yokota as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent Application Publication No. 2004/0236785 by Greiner (hereinafter Greiner).

Regarding Claim 5, although Redmond and Peters and Yokota disclose the method further comprising said segmented data file from said data bundles (Redmond: pg. 8, lns. 10-18) and (Yokota: col. 15, lns. 55-col. 16, lns. 28; figs. 9, 10A & 10B), Redmond and Peters and Yokota do not explicitly disclose the method of transmitting instructions for reassembling. However, such a feature is well known in the art as disclosed in Greiner (Greiner: [0042], lns. 4-7 & 11-16) and it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the teachings of Greiner in the systems of Redmond and Peters and Yokota in view of improving the efficiency of the segmented data delivery system.

9. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Peters, further in view of Yokota as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent No. 6,486,892 issued to Stern (hereinafter Stern).

Regarding Claim 9, Redmond and Peters and Yokota do not disclose the method wherein said segmented data file includes one or more of a software package, a software patch and a software upgrade. However, such a feature is well known in the art as disclosed in Stern (Stern:

col. 7, lns. 45-50) and it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the teachings of Stern in the systems of Redmond and Peters and Yokota in view of improving the efficiency of the segmented data delivery system.

Regarding Claim 14, Redmond and Peters and Yokota and Stern disclose wherein said target device is a hand held device with storage capability including one or more of a telephone, a personal digital assistant and an audio player (Redmond: pg. 8, lns. 10-18) and (Stern: col. 7, lns. 61-67).

Response to Arguments

10. Applicant's arguments filed 10/9/2008 have been fully considered but they are not persuasive.

Applicant argues that Redmond in view of Peters and further in view of Yokota do not disclose the feature of "the directory lists source storage device locations containing data bundles that correspond to the at least one of the one or more segments, at least one data bundle being stored on only a single source storage device." However, the Examiner disagrees. As far as the claim is understood and as explained in the rejections above, Peters discloses (i.e., col. 13, lines 53-65) that "All of the segments on a storage unit may be stored, for example, in a single file at the storage unit." Therefore, one of ordinary skill in the art would recognize that this teaching of Peters are equivalent to the claimed feature of one or more segments being stored on only a single source storage device. In addition, it should be noted that the newly added claimed limitation does not have a support in the specification constitutes a new subject matter.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA M. PYO whose telephone number is (571)272-8192. The examiner can normally be reached on Tu & Thur 7:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Monica M Pyo
Examiner
Art Unit 2161

mpyo
01/2009

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Supervisory Patent Examiner, Art Unit 2161

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/696,109	WRIGHT ET AL.	
	Examiner	Art Unit	
	MONICA M. PYO	2161	